



State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3503 FAX (603) 271-2982



Please Note: *Effective September 1, 2003, the street address is 29 Hazen Drive*

Sandra L. Rowse  
63 Main Street  
Sunapee, New Hampshire 03782

RE: Town of Springfield  
Map/Lot 12-738, 473

**ADMINISTRATIVE ORDER**

No. WD 03-028

December 8, 2003

**A INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division to Sandra L. Rowse, pursuant to RSA 485-A:22 and RSA 482-A:6. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 29 Hazen Drive, Concord, NH.
2. Sandra L. Rowse is an individual having a mailing address of 63 Main Street, Sunapee, New Hampshire 03782

**C. STATEMENT OF FACTS AND LAW**

1. Pursuant to RSA 485-A:17, DES regulates significant alteration of terrain and erosion control through a permit program. Pursuant to RSA 485-A:6, VIII, the Commissioner of DES has adopted Env-Ws 415 to implement this program.
2. RSA 485-A:17 requires any person who proposes to significantly alter the terrain to obtain a permit from DES prior to initiating the work.
3. Env-Ws 415.02(y) defines significantly altering terrain to include disturbing more than 100,000 sq.ft. of contiguous area.
4. Env-Ws 415.09(i) and (k) require that temporary and permanent methods for preventing soil erosion and controlling runoff be employed during earth moving activities on the Property.
5. Env-Ws 415.09(j) requires construction phasing and sequencing, including methods for limiting the length of time of exposure of unstabilized soils.

6. RSA 482-A authorizes DES to regulate dredging, filling, and construction in or on any bank, flat, marsh, wetland, or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11, I the Commissioner of DES has adopted Wt 100 *et seq.* to implement this program.
7. RSA 482-A:3, I states that "[no] person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from [DES]."
8. RSA 482-A:14, III provides that "(f)ailure, neglect or refusal to comply with [RSA 482-A] or rules adopted under [that] chapter, or an order or condition of a permit issued under [RSA 482-A], and the misrepresentation by any person of a material fact made in connection with any activities regulated or prohibited by [RSA 482-A] shall be deemed violations of RSA 482-A".
9. Wt 304.07 states that "[e]mbankments shall have appropriate slope protection adjacent to culverts such as concrete or stone headwalls or rip-rap where flowing water conditions exist."
10. Sandra L. Rowse is the owner of real property located on Route 114, Springfield, NH more specifically identified on Town of Springfield Tax Map 12 as Lots 738 and 473 ("the Property").
11. On September 6, 2002, DES received an after-the-fact Standard Dredge and Fill Application ("the Wetlands Application") from Stevens Engineering. The Wetlands Application proposed, *inter alia*:
  - a. The creation of a pond impacting 15,885 square feet of previously disturbed forested wetland;
  - b. The creation of a pond outlet through 235 linear feet of previously disturbed seasonal stream channel;
  - c. The installation of a 2 foot diameter X 20 foot long culvert in a seasonal stream for property access; and
  - d. The installation of a 3-foot diameter X 30 foot long culvert in a perennial stream for property access.
12. The Wetlands Application was submitted to retain the wetland impacts on the Property as a result of logging operations undertaken as part of converting the Property from woodlands to development of a function hall and associated grounds.
13. On December 4, 2002, DES personnel met on the Property with Ross Stevens, Stevens Engineering, Sandra Rowse and Ray Lobdell, certified wetland scientist. Mr. Stevens and Mr. Lobdell had been contracted by Ms. Rowse to design the project and prepare the required Site Specific and Wetlands Applications. DES personnel conducted an inspection of the Property and observed the following:
  - a. A forested wetland area measuring approximately 6,000 square feet had been cleared and stumped;

- b. An intermittent stream measuring approximately 235 linear feet had been dredged;  
In excess of 100,000 square feet of upland terrain had been cleared and stumped;
- d. Erosion control measures had been installed; and
- e. The site appeared to be stable.

14. Ms. Rowse, Mr. Stevens and Mr. Lobdell were advised by DES personnel during that meeting that no further work should be done on the Property until site specific and wetlands permits had been obtained.

15. By letter dated December 4, 2002, DES issued to Stevens a Request for More Information ("Request"). The Request noted that the site is currently in violation of RSA 482-A:3 and RSA 485-A:17 and suggested, in part, the following:

- a. Submit an after-the-fact site specific application to DES; and
- b. Delineate the wetlands near the area of the proposed culverts.

16. The Request gave Stevens 120 days, until April 3, 2003, to submit the site specific permit application and to delineate the wetlands. DES did not receive the requested information.

17. By letter dated April 7, 2003, Stevens requested an extension to submit the information.

18. On August 27, 2003, DES personnel met with Mr. Stevens and Mr. Lobdell. The wetlands and site specific permit applications were submitted to DES at that time.

19. During the August 27, 2003 meeting, Mr. Stevens stated that a portion of the project area had not been stabilized. DES personnel requested that the area be stabilized immediately. Mr. Stevens stated that the area would not be stabilized until DES issued permits to Ms. Rowse.

20. On September 2, 2003, DES received a Notification of Forest Management Activities Having Minimum Wetlands Impact ("the Notification") signed by Ms. Rowse, dated August 26, 2003. The Notification proposed the installation of a permanent four-foot diameter culvert and stone headwalls in the same location indicated in the Wetlands Application. By signing the Notification, Rowse certified that the land being cleared was not "in preparation for subdivision, development, or conversion to non-forestry use." The Notification also required compliance with Best Management Practices.

21. On September 5, 2003, Mr. Stevens requested, via e-mail, permission to install a proposed three-foot diameter culvert in the perennial stream prior to receiving the wetlands permit. On September 9, 2003, DES personnel informed Stevens via e-mail that a culvert was not to be installed until the wetlands permit was issued and a pole ford, as was referenced in Stevens' e-mail, could be used. A pole ford had been previously used in this location during the logging operation.

22. On September 18, 2003, DES sent to Ms. Rowse a Complete Forestry Notification.

The Complete Forestry Notification allowed Rowse to install the culvert provided that "[y]ou are cutting timber for forest management purposes ONLY and not for current or future development."

23. On October 17, 2003, DES personnel conducted a follow-up inspection of the Property. DES personnel observed the following:

- a. The portion of the Property that had been disturbed prior to the December 4, 2002 visit by DES personnel had been stabilized;
- b. A new access drive approximately 2000 feet long and 20 feet wide had been constructed. The road surface and road slopes had not been stabilized and erosion was evident in numerous places;
- c. One section of the access drive, on the east side of the perennial stream, measuring approximately 250 feet in length had a slope of approximately 15%. Erosion of unstable soils had created gullies measuring approximately 12 inches in depth and one to two feet wide. The gullies were 100 feet in length in some places;
- d. A 48" culvert had been installed in the perennial stream. No headwalls had been constructed at the inlet or outlet. Gullies and rills were observed in the fill placed over the culvert, resulting in sedimentation in the stream;
- e. Sediment was observed in the perennial stream for more than 150 feet downstream of the culvert, as a result of erosion of unstable fill that had been placed around the 48" culvert; and
- f. Erosion control measures were not installed on the Property, except in the immediate vicinity of the 48" culvert, but those measures had been improperly installed and had not been maintained and had failed.

#### **D. DETERMINATION OF VIOLATIONS**

1. Rowse has violated NH RSA 485-A:17 by significantly altering in excess of 100,000 square feet of terrain without the required permit from DES.
2. Rowse has violated NH RSA 485-A:17 and Env Ws 415.09(i) by failing to install erosion control measures on the Property.
3. Rowse has violated NH RSA 485-A:17 and Env Ws 415.09(j) by failing to stabilize areas within the site, particularly on the 2000 foot driveway and the area of the 48" culvert
4. Rowse has violated NH RSA 482-A:3, I by placing fill in wetlands and surface waters of the State, located on the Property, without a permit from DES.

## **E. ORDER**

Based on the above findings DES hereby orders Sandra L. Rowse as follows

1. **Immediately cease and desist** all activities on the Property, except as necessary to stabilize the Property pursuant to this Order.
2. **Immediately stabilize the Property** as necessary to protect surface water quality and prevent erosion.
3. **Within 10 days of the date of this Order**, prepare an erosion and sediment control Plan ("Plan") for the Property, and submit said Plan to DES for review. The Plan shall include, at a minimum, temporary and permanent erosion control measures necessary to stabilize the site, protect surface water quality, and prevent further impacts to surface waters. The Plan shall also include a schedule for implementing the measures described in the Plan.
4. Implement the Plan on the Property, as approved by DES, in accordance with the approved schedule.
5. **Within 15 days of the date of this Order**, submit a wetlands restoration plan ("Restoration Plan") to DES for review and approval. The restoration plan shall be prepared by a certified wetland scientist, and include provisions for restoration of the wetland and surface waters impacted by activities at the Property. The following shall be submitted with the restoration plan:
  - a) A plan with dimensions, drawn to scale, showing:
    - i. existing conditions on the site, with wetland boundaries and land topography; and
    - ii. proposed conditions after reestablishing the jurisdictional areas;
  - b) A detailed description of the proposed means of erosion control (silt fence, hay bales, etc.) and stabilization of the restoration area;
  - c) A detailed description of the proposed planting plan for the stabilization and revegetation of the restoration areas;
  - d) A description of the proposed construction sequence, equipment, methods for accomplishing restoration and anticipated restoration compliance date; and
  - e) A description of the method of documenting at least 75% survival of all vegetation planted during the restoration project. This should include, at a minimum, restoration progress reports for two successive growing seasons following completion of the restoration project. These reports should be submitted to DES on September 15, 2004, and September 15, 2005.
6. **Immediately** retain a certified wetland scientist to supervise the implementation of the Restoration Plan prepared in accordance with Paragraph 5 above and to submit the required restoration progress reports.

7. Implement the Restoration Plan proposed in accordance with Paragraph E.5 above only after receiving written approval, and as conditioned, by DES.
8. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Rene J. Pelletier, Manager  
DES Water Division, Land Resources Management Program  
29 Hazen Drive - P.O. Box 95  
Concord, NH 03302-0095

#### F. APPEAL

Any person aggrieved by Paragraphs D.1, D.2 and D.3 of this Order may appeal the Order to the New Hampshire Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>.

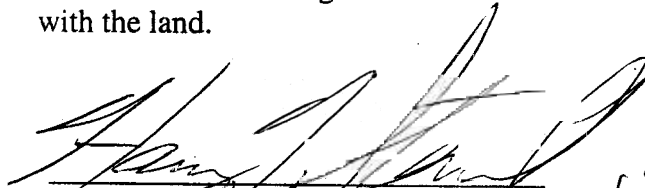
Any person aggrieved by Paragraph D.4 of this Order may apply for reconsideration with respect to any matter determined in this action within 20 days from the date of the Order. A motion for reconsideration must describe in detail each ground for the request. DES may grant reconsideration if in its opinion, good reason is provided in the motion.

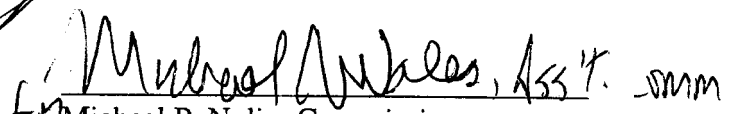
Filing an appeal or motion for reconsideration of the Order will not automatically relieve you of your obligation to comply with the Order.

#### G. OTHER PROVISIONS

Please note that RSA 485-A:22 and RSA 482-A:13 and 482-A:14 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Sandra L. Rowse remains obligated to comply with all applicable requirements. DES will continue to monitor Ms. Rowse's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Sullivan County Registry of Deeds so as to run with the land.

  
Harry T. Stewart, P.E., Director  
Water Division

  
Michael P. Nolin, Commissioner

*Certified Mail # 7099 3400 0002 9774 7596*

cc: Mark Harbaugh, DES Compliance Attorney

Tim Drew, DES Public Information Office

Sullivan County Registry of Deeds

Ross Stevens, Stevens Engineering

Ray Lobdell, CWS

Springfield Planning Board

Springfield Conservation Commission